



**MCI Telecommunications  
Corporation**

1801 Pennsylvania Avenue, NW  
Washington, DC 20006  
202 887 2551  
FAX 202 887 2676

**Mary L. Brown**  
Senior Policy Counsel  
Federal Law and Public Policy

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July 21, 1999

Kyle Dixon  
Federal Communications Commission  
The Portals  
445 12th Street, S.W., Rm. 8-A204E  
Washington, D.C. 20554

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JUL 21 1999  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**Re: EX PARTE in CC Docket No. 96-262**

Dear Mr. Dixon:

MCI WorldCom, Inc. ("MCI WorldCom") understands that the Commission will very soon consider whether to grant the incumbent local exchange carriers (ILECs) pricing flexibility for certain interstate special access services beyond the flexibility already afforded to them under the price cap rules. In our view, proposals to provide ILECs with immediate interstate special access pricing flexibility provide an enormous benefit to the ILECs as they manage their market share in the face of emerging competition, while providing no benefit to carriers such as MCI WorldCom who depend upon ILEC access to provide long distance services.

While MCI WorldCom expects to visit you on this issue soon, we wanted to briefly highlight in advance of our meeting our strong concerns with the proposed item, insofar as we understand what the proposal may contain.

Pricing flexibility must be connected to the level of competition. Additional pricing flexibility provides an economic benefit only if the market for exchange access services is sufficiently evolved so that price competition can exist between carriers offering exchange access services, or price competition can result from the credible entry of carriers who would offer exchange access services. At the present time, there is virtually no competitive presence for switched exchange access. Only a very limited degree of competition exists for special access or dedicated exchange access services, and is generally limited to entrance facilities (connections between a long distance carrier's point of presence and an ILEC serving wire center). At the other end of the special access circuit, the "channel termination" connecting the customer premises to an ILEC serving wire center, the ILECs maintain complete dominance in the market and barriers to entry for competitors remain high. In this environment, there is no price competition that exists, or can be realized, to the access customer's benefit.

**Fact: Interexchange carriers and competitive local exchange**

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**carriers selling data services agree that ILEC access continues to represent 80-90% of high capacity circuit costs.**

Competition for exchange access is tied to the outcome of other pending dockets. Competition in the exchange access market is inextricably tied to competition in the exchange market. At present, rules to specify the competition for exchange and exchange access are the subject of a number of pending proceedings – including the Further Notice in CC Dockets No. 96-98 and 95-185 (known as the “319 remand”), Universal Service Reform (identifying subsidies and making subsidies available to all carriers willing to serve) and Access Charge Reform (removing subsidies from access charges). Because exchange services and exchange access services are provisioned over the same ILEC networks, the competitive conditions under which new entrants will meet the ILECs in the market must be resolved before policymakers can have a reasonable expectation that anything more than very limited competition will exist.

***Fact:* In its further consideration of its 51.319 rule, the Commission is evaluating whether to provide the combination of loop and transport elements. “Loop” in this context is equivalent to channel terminations, which is the terminology used in special access to describe the link from the serving wire center to the customer premises. Channel terminations are combined with transport to provision special access circuits.**

Any grant of pricing flexibility must be limited in scope. The Commission must limit its consideration of additional pricing flexibility to special access and dedicated transport only. There is no record basis for considering any further steps toward pricing flexibility for switched services or shared transport at this time.

***Fact:* 96% of switched transport minutes use ILEC transport.**

Operational collocations are not a measure of competition for special access. Suggestions that the Commission adopt a metric based on operational collocations as a basis for allowing current or future relief, misunderstands the nature of exchange access. Collocation cannot be equated with the existence of in-place and available transport capacity necessary to serve interexchange carriers. Moreover, new entrants typically sell capacity at the DS-3 level, when many interoffice facilities economically support only a DS-1 connection. Nor does a collocation test address barriers interexchange carriers face in rolling circuits to a new provider, such as ILEC refusal to process DS-3 level orders, high nonrecurring charges and large termination liabilities.

***Fact:* Fewer than 5 to 10% of special access locations can be provisioned using competitive facilities. MCI WorldCom must provision to the vast majority of the serving wire**

**centers in an MSA due to the geographic dispersion of our special access customer base.**

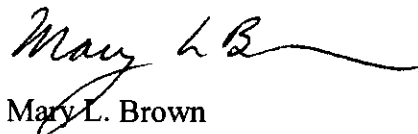
Non-discrimination requirements will not “save” a plan to allow ILECs to charge on a customer-specific basis. Any contract pricing authority must be accompanied by meaningful pre-effective review. Tariffs must be filed 15 days in advance. The Commission must take great care to guard against contract tariffs for which there are no similarly-situated customers. For example, route-specific pricing must be banned, since ILECs can define routes to fence out similarly-situated customers.

MCI WorldCom has urged the Commission to adopt a national set of criteria for the grant of future pricing flexibility, and to deny the pending petitions for forbearance of access requirements filed by many of the largest ILECs. The challenge is to devise a set of rules that will foster competition in the exchange access market.

With interstate access pricing well above cost, and very limited facilities-based competition, there is little likelihood that giving the ILECs the ability to offer contract-specific pricing for special access and dedicated transport will allow large interexchange carriers to leverage the little bit of competition that exists into better pricing. Our belief is that the opposite is true – contract pricing will result in better prices for a chosen few, while more firmly cementing ILEC “generic” tariff pricing, on which we will depend for the vast majority of our circuits, at price cap maximums. In addition, the dangers if the Commission does not accurately guard against predatory pricing, which would discourage new entrants, would be affirmatively harmful.

The Commission can accomplish its goal of outlining future pricing flexibility for these services, although perhaps not in the form currently contemplated. We look forward to meeting with you on this important issue.

Sincerely,



Mary L. Brown

Cc: Dorothy Attwood, 8-B201  
Bill Bailey, 8-A302